

# **Scottish Animal Welfare Commission**

**Review of Scottish Government Activity  
affecting the Welfare of Animals, as Sentient  
Beings**

**November 2021**

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### **1. Background**

Under Regulation 5(2)(b) of the Scottish Animal Welfare Commission Regulations 2020, one of the functions of the Commission is to provide advice on any matters concerning the welfare of protected animals on which the Commission considers it should offer its advice.

At its inaugural meeting in March 2020, the Scottish Animal Welfare Commission agreed that, in addition to its obligation under Regulation 14 of the 2020 Regulations to report on its own activities to the Scottish Ministers and Scottish Parliament, it would be desirable for the Commission also to review relevant activity by the Scottish Government.

The Commission believed that such a review would facilitate its provision of advice to promote the welfare of animals in Scotland. It would also go some way towards replacing the requirement, previously placed upon the UK government (and thereby, the four administrations) by Article 13 of the Treaty on the Functioning of the European Union (TFEU), to pay full regard to animal welfare.

Article 13 states that:

“In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.”

The Commission has reviewed the activities of the Scottish Government over the past five years including its legislative proposals and delivery. In this first report SAWC has taken a broader remit to consider the whole of Session 5 and set the context for further reports. In future the Commission intends to publish an annual review to comment on the delivery of animal welfare commitments in the Programme for Government of the previous year, as well as other relevant policy and legislation events.

### **2. Scottish Government - Programmes for Government**

Session 5 of the Scottish Parliament ran from 12 May 2016 – 5 May 2021. During that period, the Scottish Government issued a Programme for Government each September setting out its commitments for the coming year. All of these Programmes for Government contained proposals for measures relevant to animal welfare.

## **2016 – 2017 A Plan for Scotland**

<https://www.gov.scot/publications/plan-scotland-scottish-governments-programme-scotland-2016-17/>

In the 2016 - 2017 Programme for Government, the Scottish Government announced its intention to introduce a Wild Animals in Circuses Bill to ban the use (performance and exhibition) of such animals in travelling circuses on ethical grounds and put in place enforcement provisions and sanctions.

The Scottish Government intended to increase the penalties for wildlife crime and consider the creation of new sentencing guidelines in line with recommendations from the Wildlife Crimes Penalties Review Group, which had reported in 2014. A new Wildlife Crime Investigation Unit was to be created and the operation of the Partnership Against Wildlife Crime was to be reviewed.

The outcome of Lord Bonyon's review into hunting with dogs was to be considered.

The Scottish Government stated that it would continue its review of pet welfare, including consideration of the results of consultations on electronic training collars and tail docking of working dogs.

The Programme also included a proposal for a Good Food Nation Bill, although at this time the Scottish Government did not make a direct connection between good food and animal welfare, as well as measures affecting wild fisheries and salmon conservation.

## **2017 – 2018 A Nation with Ambition**

<https://www.gov.scot/publications/nation-ambition-governments-programme-scotland-2017-18/>

This Programme for Government noted that the Wild Animals in Travelling Circuses Bill had been introduced to prohibit the use of any animal not commonly domesticated within Britain for exhibition, display or performance in a travelling circus in Scotland. The Scottish Government also announced that it would develop new licensing requirements to protect the welfare of wild and domesticated animals used for public performance or display in other circumstances.

With regard to the wider rural economy, the Scottish Government stated that it would press for all powers over agriculture, animal health and welfare, fishing and rural and environmental policy to transfer to Scotland.

On wildlife, the commitment to take forward proposals with Police Scotland for new resources to tackle wildlife crime was renewed. An independent group was to be established to consider the management of grouse moors, and research would be commissioned to examine the impact of large shooting estates on Scotland's economy and biodiversity. A further independent group would advise on effective and sustainable deer management. Lord Bonyon's recommendations to strengthen the law on foxhunting and Professor Poustie's recommendations to increase penalties for wildlife crime remained works in progress.

Direct commitments to improve animal welfare included a new communications campaign to build on research commissioned on illegal importation and sales from “puppy farms”.

Legislation was proposed to amend the Animal Health and Welfare (Scotland) Act 2006 to increase the maximum penalty for the most serious cruelty offences to five years’ imprisonment as well as allowing fixed penalty notices for lesser offences. Proposals were also underway for a modern system of registration and licensing of animal sanctuaries and rehoming activities as well as dog, cat and rabbit breeding, dealing and selling. Stricter control of electronic dog training collars was again proposed.

The Scottish Government also planned to consult on the introduction of compulsory video recording of slaughter at abattoirs in Scotland to aid enforcement of welfare requirements by abattoir management and Food Standards Scotland.

Consultation on a Good Food Nation Bill remained on the agenda. In other farmed animal areas, the Scottish Government planned legislation to eradicate bovine viral diarrhoea and work with Livestock Health Scotland to identify the next target livestock diseases, and to build the service and supply chain to promote farmed fish and seafood to international and domestic markets.

### **2018 – 2019 Delivering for Today, Investing for Tomorrow**

<https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

In this Programme for Government the Scottish Government announced that it would “establish an Animal Welfare Commission to provide expert advice on the welfare of domesticated and wild animals in Scotland and ensure that we maintain high standards of animal welfare after Brexit.”

It would also take steps to allow animals taken into the protection of the Scottish SPCA or local authorities to be rehomed much more quickly and efficiently than at present and introduce increased sentences for the worst types of animal cruelty, including attacks on police dogs. Work would continue to introduce and reform licensing of animal activities including animal sanctuaries, rehoming centres, breeding and the use of animals in public display or performance.

Farm Animal Welfare Codes were to be updated and compulsory video recording of slaughter in abattoirs was to be introduced.

There was further reference to a Good Food Nation albeit without a clear commitment to legislation. Primary school children would be given more opportunities to visit farms to raise their awareness of where their food came from and the role of Scottish farmers as custodians of the countryside and food producers.

## **2019 – 2020 Protecting Scotland’s Future**

<https://www.gov.scot/publications/protecting-scotlands-future-governments-programme-scotland-2019-20/>

This was the Programme for Government with the greatest number of commitments relevant to animal welfare. The Animal Health and Welfare (Amendment) Bill was to be taken forward, not only increasing the maximum penalties and simplifying the rehoming process for animals in cruelty cases, but also providing powers to make regulations for fixed penalty notices in relation to animal welfare offences. Work was also underway on regulations to ensure a modern licensing system for dog, cat and rabbit breeders, pet sellers and animal sanctuaries and rehoming services.

On biodiversity, the Scottish Government intended to develop “a strategic approach to wildlife management that puts animal welfare at the centre while protecting public health and economic and conservation considerations”, with the publication of a set of principles planned for the following year. Responses to the independent reviews on grouse moor management and deer management were to be published in 2020.

Recruitment was underway to the interim Scottish Animal Welfare Commission.

New Farm Animal Welfare Guidance for the keeping of chickens had been published and similar work for egg-laying hens and other species of livestock was planned. Following the consultation on compulsory video recording of slaughter in abattoirs, secondary legislation was in prospect and the industry would be supported to introduce CCTV in advance of this. Calf rearing systems in the dairy sector were under review.

A 10-year Farmed Fish Health Framework had been published, intended to address the health and wellbeing of farmed fish, promote innovation in fish health management and reduce fish farm mortality. Tighter thresholds had been introduced for sea lice reporting and intervention and there would be legislation requiring all marine farms to report a weekly sea lice number.

A Good Food Nation Bill was to be laid before the Parliament, placing responsibilities on Scottish Ministers and selected public bodies to set out statements of policy on food and to have regard to these statements in the exercise of relevant functions.

The second statutory review of seal licences under section 129 of the Marine (Scotland) Act 2010 would be undertaken by September 2020.

Elsewhere, partnership work continued to reduce the negative impact of fireworks on animals and communities

## **2020 – 2021 Protecting Scotland, Renewing Scotland**

<https://www.gov.scot/publications/protecting-scotland-renewing-scotland-governments-programme-scotland-2020-2021/>

In this Programme for Government the Scottish Government reiterated its intention to publish responses to both the Werritty report on grouse moor management and the Independent Working Group report on deer management.

Following the passage of the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, protection for mountain hares would be provided, alongside licensing arrangements which will allow proportionate and responsible management of the species where necessary.

Plans for legislation to update the Protection of Wild Mammals Act had been postponed due to COVID-19. (The 2021 – 2022 Programme for Government contains a commitment to introduce a Bill in Year 1 of the current parliament.)

The Scottish Government expressed its concern over the UK Government's proposals intended to protect the UK's internal market after Brexit, whereby goods and services from one part of the UK would be automatically accepted in another, regardless of the standards applied. There was concern that decisions of the Scottish Parliament on food safety, animal welfare, the environment, public health and other matters could be undermined and that Scotland would have to accept lower standards in matters for which the Scottish Parliament is responsible, regardless of the Parliament's views.

### **3. Scottish Government Animal Welfare Legislation and Policy**

This section summarises the relevant legislation and policy developments during the Scottish Parliamentary term 2017 – 2021.

#### **Domestic Legislation**

##### **Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017**

These Regulations permit the removal by a veterinary surgeon of the end third of tails of puppies of spaniels and hunt point retriever breeds if the veterinary surgeon is satisfied there is evidence showing that the dog is likely to later be used for work in connection with the lawful shooting of animals. This reversed the previous prohibition on routine tail docking of all dogs and followed Scottish Government funded research on the incidence of tail injuries in working dogs in Scotland and public consultation.

##### **Wild Animals in Travelling Circuses (Scotland) Act 2018**

This prohibits the use of wild animals in travelling circuses in Scotland. It followed public consultation on the ethical objections to the use of wild animals in circuses, as the previously established position was that there is insufficient objective evidence of welfare problems in all types of wild animals that could be used in circuses to allow prohibition solely on welfare grounds. Similar legislation was subsequently introduced in England and Wales.

### **Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2019**

Following a beaver reintroduction trial at Knapdale, the Scottish Government laid this SSI before the Scottish Parliament on the 22nd February 2019 which added beavers to Schedule 2 of the Conservation (Natural Habitats, &c.) Regulations 1994, and gave them European Protected Species (EPS) status. The legislation came into force on 1 May 2019.

### **Agreement on International Humane Trapping Standards (AIHTS) 2019**

The Agreement on International Humane Trapping Standards (AIHTS), came into force on 28 March 2019. In the UK this applies to badger, beaver, otter and pine marten.

In order to give manufacturers sufficient time to produce compliant traps in sufficient quantities and for trap users to replace their existing traps for stoats, Ministers decided to include a transitional provision which delayed implementation for stoats by 12 months (until 1<sup>st</sup> April 2020).

The AIHTS is an international agreement that aims to impose common welfare standards in the trapping of fur-bearing animals. The EU is a signatory to the Agreement and member states are required to take action even if animals are not routinely trapped for their fur in the member state.

Of these, only the stoat is regularly and widely trapped in the UK and it is the only species for which lethal spring traps are commonly used. The others are protected species and are only infrequently trapped (for conservation, research, disease control or damage prevention purposes), using non-lethal traps under licences issued by NatureScot strictly on a case-by-case basis.

### **Spring Traps Approval (Scotland) Amendment Order 2020**

The Spring Traps Approval (Scotland) Amendment Order 2018 (made under S.50(3) and 85(3) of the Agriculture (Scotland) Act 1948), has authorised several new traps for stoat which meet the requirements of the Agreement on International Humane Trapping Standards. The Order also lists approved spring traps for foxes, grey squirrels, mice, mink, rats and weasels, with which trappers must comply with the conditions of use. A further selection of spring traps became available in 2019 and the Order was subsequently updated; The Spring Traps Approval (Scotland) amendment Order 2020 came into force on 10 February 2021.

### **Welfare of Farmed Animals (Scotland) Amendment Regulations 2019**

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These regulations followed the development and publication of Scottish Government “Guidance for the Welfare of Meat Chickens and Meat Breeding Chickens” and “Guidance for the Welfare of Laying Hens and Pullets” respectively.

The Regulations require that a person attending to a farmed animal must be acquainted with any relevant animal welfare guidance relating to the animal being attended to and have access to a copy of the guidance and have received appropriate instruction.

The new guidance documents replaced outdated Codes of Practice, with the intention that the guidance would be easier to update as necessary to take account of changes in legislation or best practice recommendations, without the parliamentary process required for approval of Codes of Practice.

The guidance documents were developed collaboratively through consultation with stakeholders from the farming sector and animal welfare groups, as well as the UK Animal Welfare Committee. Work on draft guidance for pigs was commenced in 2019, but was put on hold in 2020 because of other priorities during the Covid pandemic.

### **Mandatory Use of Closed Circuit Television in Slaughterhouses (Scotland) Regulations 2020**

These Regulations require operators of slaughterhouses Scotland to install and operate a closed circuit television system in all areas where live animals are present. CCTV footage must be retained for a period of 90 days. Persons authorised by Food Standards Scotland have powers to require compliance with these Regulations. This includes powers of inspection and seizure and powers to serve enforcement notices.

The Regulations came into force on 1 July 2021. Similar legislation has been in force in England since 2019.

### **Scottish Animal Welfare Commission Regulations 2020**

These Regulations established the Scottish Animal Welfare Commission under the Animal Health and Welfare (Scotland) Act 2006 to consider and provide advice on the welfare of protected animals. The definition of “protected animals” in the 2006 Act excludes wild animals unless under the control of man on a permanent or temporary basis. The function of providing advice on the protection of wildlife under section 23 of the Wildlife and Countryside Act 1981 was assigned by Ministerial declaration.

The Regulations provide for the Commission’s functions, general powers, appointment of members by the Scottish Ministers, expenses and resources. They require publication of an annual report and a workplan.

The Commission has a remit to focus on the welfare of wild and companion animals. The Commission will only consider areas that are within the normal current remit of the UK Animal Welfare Committee and the UK Zoo Expert Committee where these relate to the overall responsibility to consider the welfare needs of sentient animals in all areas of Scottish Government policy or at the specific request of the Minister. The Commission will not consider matters that are reserved to the UK Government, including the welfare of animals used in scientific procedures.

The Commission is expected to provide written reports and opinions to Scottish Ministers giving practical recommendations based on scientific evidence and ethical considerations on the welfare of sentient animals in Scotland, and the impact of policy on welfare.

Members of the Commission were recruited and appointed in 2020. Scottish Government provides the secretariat for the Commission.

### **Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020**

This Act significantly updates the Animal Health and Welfare (Scotland) Act 2006 and various pieces of wildlife legislation. It increases maximum available penalties for the most serious animal welfare and wildlife crime offences to 5 years imprisonment and/or an unlimited fine, introducing the possibility of trial by indictment which has the effect of removing the previous time bar for bringing prosecutions of 6 months under summary proceedings for these offences. This is expected to be a significant benefit for enforcement authorities as gathering sufficient evidence to present to the Crown Office and Procurator Fiscal Service in good time can be challenging in complex cases.

Maximum available penalties for a wide range of other wildlife crime offences under the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992, the Conservation (Natural Habitats, etc.) Regulations 1994, the Deer (Scotland) Act 1996, the Wild Mammals (Protection) Act 1996 and the Protection of Wild Mammals (Scotland) Act 2002, are also increased to 12 months' imprisonment and/or a fine of £40,000.

The Act provides for fixed penalties in relation to animal welfare, animal health and wildlife offences generally, increases the protection for Police animals from being caused unnecessary suffering by removing a potential defence, requires courts to consider making disqualification orders following convictions for animal welfare offences and record their reasons. It amends the Marine (Scotland) Act 2010 to increase the protection for seals from being killed, injured or taken, including removing the ability to license the killing of seals to protect farmed fish. It also protects mountain hares by amending the Wildlife and Countryside Act 1981 to remove the open season, so that they can only be killed under licence for limited, specified purposes.

It also confers powers on inspectors, where animals have been taken into possession to alleviate their suffering, to make arrangements for the treatment, transfer or destruction of those animals without the need to obtain a court order. This is expected to be a significant benefit to animals taken into possession of local authorities and Scottish SPCA, who can currently be left with animals in their care for long periods pending the outcome of legal proceedings.

Most of these provisions are now in force, but provisions relating to disqualification notices and powers relating to animals taken into possession still need to be commenced. These are now expected to come into force in autumn 2021.

There is an ongoing requirement to review whether the provisions of the Act are sufficient to ensure appropriate standards of animal welfare, animal health and protection of wildlife, with particular reference to whether provision should be made for a specific offence of theft of a pet or to prohibit the uses of collars designed to administer an electric shock to dogs. This review must be completed as soon as practicable and no later than 1 April 2025.

There is also a requirement to publish a report within 5 years on steps being taken to ensure information sharing between enforcement authorities on persons issued with a fixed penalty notice or convicted of an offence under specified animal health, welfare and wildlife legislation.

### **Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021**

These Regulations cover the licensing of selling animals as pets, rehoming animals as pets, operating animal welfare establishments (including sanctuaries and rehoming centres), breeding dogs, breeding cats and breeding rabbits. The operation of animal welfare establishments, rehoming of animals as pets, cat and rabbit breeding have not previously required licensing in the UK. Introducing the licensing of animal rehoming centres and the rehoming of animals as pets without a physical rehoming centre addresses concerns about the lack of regulation of individuals posing as well-meaning rescue organisations but being motivated by profit from transport or rehoming fees, or placing unsuitable animals with new owners.

The Regulations provide for licensing authorities (generally local authorities) to charge fees and inspect premises. They modernise and replace previous licensing requirements for dog breeding and pet sales by allowing licences to be suspended, varied or revoked and issued for periods of up to three years based on risk assessment. They also prevent the commercial sale of puppies or kittens not bred by the seller.

General licence conditions that apply to all licensable activities and thresholds on when licensing becomes necessary are listed. Specific conditions that apply to each licensable activity are included.

This legislation came into force on 1 September 2021. Guidance for local authorities and the relevant sectors to be licensed has been prepared.

### **Dogs (Protection of Livestock) (Amendment) (Scotland) Act 2021**

This Act amends the Dogs (Protection of Livestock) Act 1953 to increase the maximum available penalty for allowing dogs to chase or attack livestock to 12 months' imprisonment and/or a fine of up to £40,000. It also gives new powers to Police Scotland to seize dogs for examination by a veterinary surgeon. Courts will have powers to disqualify persons convicted of dog worrying from keeping dogs.

The legislation is expected to come into force in autumn 2021, 6 months after Royal Assent. Guidance for veterinary surgeons on examination of dogs presented to them for examination is currently being developed.

## **EU Exit Legislation**

### **Animal Welfare (Amendment) (EU Exit) Regulations 2018**

A UK Statutory Instrument (SI) was made using powers in the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what was to become retained EU law relating to animal welfare. The SI amends the following EU legislative instruments:

- Council Regulation (EC) 1099/2009 on the protection of animals at the time of killing
- Council Regulation (EC) 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97
- Council Regulation (EC) 1255/97 concerning Community criteria for control posts and amending the route plan in Directive 91/628/EEC

These EU Council Regulations put in place EU-wide standards and regimes to protect the welfare of animals during slaughter, during transport, and at control posts that they may stop at during a journey. They were directly applicable to the UK, including Scotland and became part of retained EU law following the withdrawal of the UK from the European Union. The SI ensured that the retained EU Regulations protecting the welfare of animals whilst being transported, kept at control posts or at the time of their killing continue to be operable and enforceable in the UK, after the UK left the EU. It also removed automatic recognition of EU-issued certificates of competence for slaughterers as a consequence of leaving the EU. This SI dealt only with the transfer on non-regulatory functions. The transfer of regulatory functions was made in a separate SI below.

### **Animals and Food (Transfer of Functions) (EU Exit) Regulations 2018**

A UK SI was made using powers under the European Union (Withdrawal) Act 2018 in order to correct deficiencies in what was to become retained EU law – in this case directly applicable EU legislation relating to animals and food. The law amended by the SI comprised a number of UK-wide directly applicable EU instruments related to devolved matters, including:

- Council Regulation (EC) No 1255/97 concerning Community criteria for control posts and amending the route plan referred to in the Annex to Directive 91/628/EEC
- Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97
- Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing

In particular the amendments include provision for exercise of legislative functions by Ministers in place of existing EU legislative functions. These changes were necessary to allow the continuation of the effective functioning of retained EU law. In each policy area, legislative functions were conferred so as to be exercisable at a domestic – rather

than EU – level after the UK’s exit from the EU. This was considered necessary and appropriate to ensure that the regimes continue to function smoothly, without the need for primary legislation every time a change in the technical details is required.

### **Animal Welfare (Amendment) (EU Exit) (Scotland) Regulations 2019**

The Regulations are Scottish legislation made using powers in the European Union (Withdrawal) Act 2018 in order to correct deficiencies in Scottish legislation on animal welfare to allow it to continue to operate effectively post-exit. The SSI affected the following enactments:

- Animal Health and Welfare (Scotland) Act 2006
- Welfare of Farmed Animals (Scotland) Regulations 2010
- Welfare of Animals in Transport (Scotland) Regulations 2006
- Welfare of Animals (Slaughter or Killing) Regulations 1995
- Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

These enactments put in place Scottish standards and regimes to protect the welfare of animals on farm, during transport and at the time of slaughter. The 2006 Act is part of the over-arching animal health and welfare legislation under which much of Scottish animal health and welfare provision is made. The regulations that will be affected implement EU rules in Scotland that became retained EU law post-exit.

### **Farriers (Registration) and Animal Health (Amendment) (EU Exit) Regulations 2019**

A UK SI was made using powers in the European Union (Withdrawal) Act 2018 to amend three UK legislative instruments including the Farriers (Registration) Act 1975.

The Farriers (Registration) Act 1975 is an Act of the UK Parliament that is GB-wide in extent. It makes provision to regulate the farriery profession and protects the welfare of horses by ensuring that farriers may only conduct their business if they are appropriately trained and registered. It establishes the Register of Farriers (“the Register”) in which persons must be registered in order to carry out farriery, and the profession’s regulatory body; the Farriers Registration Council (“the Council”).

The SI amended provisions to remove automatic mutual recognition of EU, EEA and Swiss Farrier qualifications and the right of holders of those qualifications to provide temporary and occasional farriery services in the UK. Farriers from these countries continue to be able to apply to register and work in the UK on the same basis as farriers from third countries if they have a qualification comparable to that of those recognised by the Council.

### **Leghold Trap and Pelt Imports (Amendment etc.) (EU Exit) Regulations 2019**

Leghold traps are prohibited within the European Union by Council Regulation (EEC) 3254/91 as amended by The Leghold Trap and Pelt Imports (Amendment etc.) (EU Exit) Regulations 2019. Council Regulation (EEC) No 3254/91 prohibits the use of leghold traps in the European Community, and the introduction of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards.

The Leghold Trap Regulation defines a 'leghold trap' as a device designed to restrain or capture an animal by means of jaws which close tightly upon one or more of the animal's limbs, thereby preventing withdrawal of the limb or limbs from the trap. So (in layman's terms) something like a gin trap, which has not been approved for use in the UK since the 1950s. To ensure this remains the case, The Agriculture (Scotland) Act 1948, which our Spring Traps Approval (Scotland) Order is based on, was amended in 2018 to prevent an order being made to authorise the use of any trap, where the trap is a leghold trap.

The Leghold Trap and Pelt Imports (Amendment etc.) (EU Exit) Regulations 2018 were made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to ensure operability of Council Regulation (EEC) 3254/91 ("the Leghold Trap Regulation") and associated tertiary legislation following the withdrawal of the United Kingdom from the European Union. The Regulations made amendments to retained direct EU legislation concerning the use of leghold traps and the import of pelts and manufactured goods of certain wild animal species.

The Leghold Trap and Pelt Imports (Amendment etc.) (EU Exit) Regulations 2019 were made to ensure that those earlier changes properly reflect the UK's obligations under the Northern Ireland Protocol, to ensure unfettered access for movements of pelts and pelt products from Northern Ireland to Great Britain. The Regulations will continue to prohibit the use of leghold traps in Great Britain and the introduction into Great Britain, unless from Northern Ireland, of pelts, and manufactured goods incorporating pelts, of certain wild animal species unless the pelts originate from an approved country or are from animals which were captive-bred.

### **Animal Welfare and Invasive Non-Native Species (EU Exit) Regulations 2020**

This SI made changes to various legislative instruments relating to EU exit, including the Animal Welfare (Amendment) (EU Exit) Regulations 2019 and the Animals (Legislative Functions) (EU Exit) Regulations 2019. Further amendments to the EU regulations were required beyond those made by these original exit SIs to reflect the passing of the European Union (Withdrawal Agreement) Act 2020 and the Northern Ireland Protocol; and the fact that GB was to be treated by the EU as a third country for the purposes of these regulations, and vice versa, after the transition period ended on 31 December 2020. Amendments were also made to ensure the smooth operation of the retained EU legislation when dealing with Crown dependencies.

## **Scottish Government Guidance**

### **Pet rabbit welfare guidance**

Guidance on pet rabbit welfare providing detailed information about the needs of pet rabbits and how to meet these needs in accordance with good practice was published in April 2018. The guidance was developed collaboratively through consultation with stakeholders including veterinary experts and rabbit welfare groups.

### **Guidance on dog training aids**

Following previous public consultation on electronic collars, the 2017-2018 Programme for Government made a commitment to control the use of electronic dog

training collars to allow responsible use under supervision while minimising the potential misuse of low quality devices.

Initial work was undertaken to develop a regulatory regime, including considering the possibility of a standard qualification for dog trainers. This was intended to allow tightly controlled use of high quality electronic collars in an appropriate manner in circumstances where other training methods have failed and the correction of a behaviour would benefit the dog and/or people/animals it comes into contact with (for example deaf dogs, dogs chasing livestock). After opposition from MSPs and some stakeholders, who objected to any use of electronic collars, it was instead announced that guidance on these and other training methods would be developed under Section 38 of the Animal Health and Welfare (Scotland) Act 2006.

Draft Guidance on Dog Training Aids including advice on the use of aversive techniques in general was produced in discussion with key stakeholders including the Kennel Club, Dogs Trust and the British Veterinary Association. The draft was also considered by the Environment, Climate Change and Land Reform Committee before being published in October 2018.

A commitment was made to review the effectiveness of the guidance after one year. This review was initiated with a request to stakeholders to provide relevant information but analysis was put on hold in 2020 due to other priorities during the Covid pandemic. The review has now been published and will be considered by the Scottish Animal Welfare Commission as part of its planned review of dog training.

## **Other Consultations**

### **Transport of animals**

A joint call for evidence with other UK administrations was launched in 2018 to gather evidence on possible improvements to animal welfare during transport. A systematic review of scientific evidence on the welfare of animals during transport was also commissioned. This research was conducted by Scotland's Rural College (SRUC) and the University of Edinburgh.

Information from the call for evidence and the systematic review was considered by the Farm Animal Welfare Committee (now the UK Animal Welfare Committee). FAWC members also visited Aberdeen in 2018 to take evidence from stakeholders in Scotland and to observe the facilities for livestock arriving in the harbour and on board vessels using the specially designed cassette system for journeys from the Northern Isles.

The resulting FAWC Opinion was published by the Scottish Government with a joint Scottish and Welsh Government response in February 2020. This was discussed with stakeholders in Autumn 2020 before a full public consultation on all the recommendations in the FAWC Opinion was issued in December 2020. At the same time, a Defra and Welsh Government consultation on the specific question of prohibiting export of livestock for slaughter or fattening and a limited number of FAWC recommendations was run.

The results of these consultations have now been analysed and published. In response to a Parliamentary Question in March 2021, it was confirmed that the Scottish Government view was that the export of livestock for slaughter or fattening outside the UK involves journeys which are unnecessarily lengthy as these activities can be undertaken within the UK instead, allowing journeys to be replaced and reduced. The Scottish Government would therefore work alongside the other administrations to seek to end the unnecessary export of livestock for slaughter or fattening to countries outside the UK.

The reply also noted that the Scottish Government fully recognised the vital importance of traditional patterns of movement for livestock in island and remote rural communities, and will continue to protect the needs and interests of Scottish farming and crofting by ensuring that appropriate livestock movements between all areas of Scotland can continue.

### **Puppy Buying Public Awareness Campaign**

Continuing concern about the importation of puppies bred in large scale “puppy farms” associated with poor conditions for the breeding animals and disease and behavioural problems in the puppies led to [research](#) commissioned by the Scottish Government which was published in November 2017. This addressed the questions of the nature, extent and value of legal and illegal puppy sales in the UK and considered improvements to help prevent the international illegal trade of puppies and unregistered puppy farms.

Scottish Government Ministers and officials have participated in several meetings of joint working groups of enforcement agencies including local authorities and the Scottish SPCA, originally including local residents from Stranraer campaigning about the import of puppies from Northern Ireland through the port. This has developed into a wider puppy trade working group led by the Scottish SPCA and including representatives from administrations and enforcement agencies in UK and Ireland, major UK animal welfare charities and others. Because of the strong demand for puppies in Great Britain which cannot be fully supplied by responsible breeders, there remains a strong incentive for the import of large numbers of animals from low standard breeders in continental Europe and Ireland, often with false documentation or inadequate vaccination which can be fraudulently passed on to unsuspecting buyers as being home-bred, sometimes using false names and temporary phone numbers and rented addresses to avoid responsibility for any subsequent health problems. This can leave buyers with large bills for veterinary treatment or puppies who die.

Following the presentation of this research at a conference on the puppy trade organised by Scottish SPCA and supported by the Scottish Government in 2017, it was agreed that although it was important to consider amendments to legislation and improved collaborative enforcement initiatives, it was also necessary to address the demand for puppies fuelling this trade and increase public awareness of the risks and criminality involved. A Scottish Government funded public awareness campaign was therefore developed and launched in autumn 2018. This included social media, radio, and cinema elements and was widely covered in the press. Material included a dramatic video clip and appealing advertisements with a message that the cute dog

for sale could have serious health problems. The campaign directed people likely to consider buying a puppy to the website <https://www.buyapuppysafely.org/> for more information and a link to a Scottish SPCA website.

Marketing research found that the campaign had been very successful with the target audience recognising the key messages and a typical time visiting the website of several minutes. The campaign was repeated with some modifications in autumn 2019 and again in 2020 with slightly reduced marketing expenditure through the Scottish SPCA.

## **Covid Response**

The response to the Covid pandemic required the development of guidance concerning animal welfare including movements to provide essential feed and exercise as well as guidance on specific activities such as dog grooming, walking and training, delivery and collection of animals as part of a business, operation of rehoming centres and various other related queries.

An emergency Scottish Zoo and Aquarium Animal Welfare Fund was established to provide grants or loans of up to £100 000 for essential animal care costs for establishments that were close to running out of funds. In the event only a small number of grants were awarded as most zoos seem to have found funding from other sources including business loans and grants available to them as visitor attractions.

Liaison between animal welfare, tourism and Covid policy areas helped determine the rules around when the public could visit zoos and aquariums and what parts they could access at various points throughout the pandemic.

Liaison with the British and Irish Association of Zoos and Aquariums and zoos in Scotland included providing guidance on business support schemes and ensuring that industry guidance on the precautions required for re-opening was applicable to the situation in Scotland.

In February 2021 a second Scottish Zoo and Aquarium Animal Welfare Fund was launched, to provide targeted support for vital conservation projects which were under threat as a result of Covid-19 related reprioritisation of funds. Many zoos and aquaria across Scotland had to consider streamlining resources and this put conservation, education and scientific research at risk.

The Scottish Zoo and Aquarium Conservation Project Fund provided grant funding up to £400,000 per conservation project. A total of £681,959 to support four conservation projects, for the following species:

- Scottish Wildcat
- Pine Hoverfly
- Flapper Skate
- Pond Mud snail

Pine hoverfly are one of Scotland's most endangered species and their conservation is a priority. They have a vital role as pollinators and as a result of the continuation of

the project more than 3,000 captive-bred larvae were released in the Cairngorms National Park. This population is the most significant within the UK.

## **Research**

Scottish Government funded a substantial programme of animal health and welfare research at SRUC, Moredun and other Scottish major research providers as part of ongoing funding of the wider Environment, Agriculture and Food Science and Research Strategic Research Programme. Further information is at <https://sefari.scot/about-us/strategic-research-programme>

Specific welfare research projects were also commissioned from the Contract Research Fund in response to shorter term policy needs. Recent projects include a study to monitor welfare outcomes and environmental conditions experienced during the long-distance transport of calves, a review of possible non-custodial interventions in animal welfare and wildlife crime, a review of the economic viability of mobile abattoirs in Scotland and research into the impact of attacks on sheep by dogs and wild predators.

Scottish Government officials have also advised on commissioning and monitoring of a number of animal welfare projects funded by Defra from a GB research requirements budget, including investigation of a possible alternative method for humane slaughter of pigs and a review of the evidence for sentience in cephalopods and decapod crustaceans.

## **Advisory Activity**

SRUC veterinary services provide a specific farm animal welfare advisory service funded by Scottish Government. This delivers advice to Scottish Government officials on existing and potential welfare problems, promotes awareness of animal welfare requirements to livestock keepers and livestock sector organisations through publicity campaigns and supports enforcement agencies in investigating suspected cruelty/crimes involving livestock and wildlife.

## **Field Delivery**

The Animal and Plant Health Agency and Food Standards Scotland provide a wide range of animal health and welfare field delivery services including investigation of animal welfare complaints and monitoring animal welfare on farms, during transport and at slaughter, funded by Scottish Government subject to Service Level Agreements and reporting to Scottish Government. This work involves close collaboration with other enforcement agencies including local authorities and Scottish SPCA.

## **Review of the Protection of Wild Mammals Act**

In recognition of concerns about the effectiveness of the current legislation governing the use of dogs to hunt for foxes and other wild mammals, the Scottish Government asked one of Scotland's most senior judges, Lord Bonomy, to carry out a detailed

review of the current position. A consultation on Lord Bonomy's recommendations closed in January 2018.

Lord Bonomy's report on his review of the Protection of Wild Mammals (Scotland) Act 2002 can be found at <https://www.gov.scot/publications/report-review-protection-wild-mammals-scotland-act-2002/>

On 9 January 2019 the then Minister for Rural Affairs and the Natural Environment, Mairi Gougeon MSP, set out to Parliament her proposals for fox hunting reform, including:

- the implementation of the majority of Lord Bonomy's recommendations; and
- a new 2-dog limit (in line with England and Wales) alongside exploring a licensing scheme permitting more than 2 dogs for pest control where required; and
- provision to discourage the establishment in Scotland of the practice known as "trail hunting" as this poses significant risks for wild mammals.

In response to the COVID-19 public health and economic crisis, Scottish Government resources were deployed in those areas, and due to the need to prioritise essential legislation, work on the amending bill was postponed.

The Scottish Government has committed to introducing legislation in year 1 of the current Parliament.

### **Grouse Moor Management Group (Werritty Review)**

The Independent review of grouse moor management was commissioned by the Scottish Government in response to a report from NatureScot which showed that around one-third of tagged golden eagles had disappeared on or around driven grouse moors.

The Group's remit was to examine the environmental impact of grouse moor management practices such as muirburn, the use of medicated grit and mountain hare culls and advise on the option of licensing grouse shooting businesses.

Their report, which was published on 19 December 2019, recommended licensing of grouse shooting businesses and also made over 40 recommendations on other aspects of grouse moor management.

The Minister for Rural Affairs and the Natural Environment announced the Government's response to the independent Grouse Moor Management Group's report (the 'Werritty Review') in the Scottish Parliament on 26 November 2020.

The Scottish Government broadly accepted all of the recommendations but has committed introducing a licensing regime in the next Parliament, rather than accept the review group's recommendation to wait 5 years before considering whether a licensing scheme should be introduced.

## **Deer Working Group Review**

The Deer Working Group was established by the Scottish Government in 2017, following reports by NatureScot in 2016 and the Scottish Parliament's Environment, Climate Change and Land Reform (ECCLR) Committee in 2017.

The Group was appointed as an independent working group to review the existing statutory and non-statutory arrangements for the management of wild deer in Scotland, taking account of the position with each of the four species of wild deer and the varying circumstances across Scotland.

Consideration has also been given to the potential welfare implications where densities are particularly high with a focus on how sustainable deer management can better benefit the welfare of wild deer.

The report by the Deer Working Group, published on 29 January 2020 makes ninety-nine recommendations for change to deer management arrangements. These are broad-ranging proposals including, phasing out the use of lead ammunition to cull deer, modernisation of existing deer legislation, the development of robust deer management plans and enhanced monitoring of deer numbers.

The Scottish Government has accepted ninety-two of the ninety-nine recommendations and work to deliver the recommendations will be taken forward in the new parliamentary term.

## **4. Discussion**

The five Programmes for Government covering session 5 of the Scottish Parliament contain a level of specific commitment to animal welfare measures that has not previously been seen in Scotland. The associated programme of delivery by the Scottish Government encompasses these measures and many more, including research projects, communications campaigns and engagement with stakeholders.

Note needs to be taken of the considerable amount of secondary legislation required pursuant on the UK withdrawal from the European Union, and the amount of officials' time that had to be devoted to this, across all fields including animal welfare. In addition, public resources and priorities have been subject to unprecedented pressure in 2020 and 2021 due to the Covid-19 pandemic and associated measures.

The Commission recognises that the Scottish Government has been consistent in following through its declared intentions for animals, despite these additional constraints, and strongly welcomes legislative developments including the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 and the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021. These are both substantial pieces of legislation with the potential to improve the welfare of many thousands of animals in Scotland, as long as they are properly implemented and enforced, which may require additional central and local government resources.

While more limited in scope, the Wild Animals in Travelling Circuses (Scotland) Act 2018 is also to be welcomed. The legislation – the first of its kind to be passed in the UK – focused on ethical issues surrounding: the use of animals where breeding for circus use has not resulted in any significant genetic, physiological or behavioural change from the wild state; the value of artificial tricks performed for entertainment; the inability of temporary or mobile accommodation to provide the sizeable and complex living conditions that many wild animals required; the amount of time circus animals spent confined whilst travelling, unable to undertake their natural and instinctive activities, and the lack of education or conservation value offered by this type of entertainment.

On a more critical note – and again recognising the demands in responding to the Covid pandemic – the Commission notes that certain commitments in the Programmes for Government were repeated from year to year and still remain outstanding. A Bill to implement the Bonomy recommendations, which concerns wild animals and is relevant to the welfare needs of these sentient beings, was paused temporarily. The Commission recognises that a commitment to implement the Werritty recommendations has been included in the 2021 Programme for Government.

The Commission also notes the many representations made, with supporting evidence, during the passage of the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017 to the effect that permitting the shortening of dogs' tails, even in a limited number of working breeds, may have a negative impact on animal welfare. In view of the controversy generated by this measure, the Commission recommends that follow-up monitoring be undertaken to assess the net benefits or disadvantages for animals as a result of these measures.

The Commission also considers that the Good Food Nation agenda would benefit from explicit recognition that good animal welfare is a part of sustainable food production and food quality. The proposed Good Food Nation Bill for 2021-2022 announced in the most recent Programme for Government will place responsibilities on Scottish Ministers and specified public bodies to publish and adhere to statements of policy on food, setting out the main outcomes to be achieved in relation to food-related issues, the policies needed to do this and the indicators or other measures required to assess progress. We see no reason why such statements and policies should not include the promotion of animal welfare.

To conclude on an entirely positive note, the Commission applauds the Scottish Government for taking the views of stakeholders into account in a number of its initiatives for animal welfare, not least the creation of the Commission itself. The Commission has been accorded a welcome degree of independence with regard to setting its agenda and has already been able to consider issues other than those referred to it by the Scottish Ministers. This report is an example of that autonomy, and the Commission hopes to build on this in future to provide further recommendations as to how animal sentience could and should be considered in policymaking by the Scottish Government.

## **Acknowledgment**

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